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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,026	09/03/1999	CHARLES A. PEYSER	020748.0103PTUS	6211
7590 08/18/2008				
IP Department Patton Boggs, LLP Suite 3000 2001 Ross Avenue Dallas, TX 75201			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 08/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/390,026

**Applicant(s)**

PEYSER ET AL.

**Examiner**

Yogesh C. Garg

**Art Unit**

3625

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39, 45, 46, 54, 55, 58 and 60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39, 45, 46, 54, 55, 58 and 60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/4/2008 has been entered.

### ***Response to Amendment***

2. In the response filed 6/4/2008 the applicant has amended claims 39, 54-55, and 58 and has added new claim 60. Currently claims 39, 45-46, 54-55, 58 and 60 are pending for examination.

### ***Response to Arguments***

3.1. Applicant's arguments with respect to currently amended claim 39 have been considered but are moot in view of the new ground(s) of rejection.

3.2. The examiner does not agree with the applicant's arguments (see Remarks, pages 8-9), " In addition, Applicant concurs with the Examiner that " Walker does not explicitly disclose that the prior use information is received from the buyer....." ....The instant specification clearly states:" Prior usage data includes particular questions for the sellers posed by the buyer.....by TSM 140" .....a capability not taught by Abelow" .

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Prior usage data includes particular questions for the sellers posed by the buyer.....by TSM 140".....) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3.3. In view of the current amendments made to claims 54-55, 101 rejection of these claims is withdrawn.

4. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other relevant and related passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the other relevant and related passages and figures in the cited references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 39, 45-46, 54-55, 58 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of the published article, " Bell offers Answers for Commonly Asked Customer Questions"; Anonymous; St Louis Business Journal (St Louis, MO US), v7 N26 s3 p1c; March 23, 1987 extracted from Dialog File 635; hereinafter referred to Bell.

With regards to claim 39, Walker discloses a method for purchasing telecommunication services, comprising:

receiving one or more requests for purchasing at least one telecommunication service at a server, the request being associated with a buyer, generating an offer to provide the at least said telecommunication service to the buyer in response to receiving the one or more requests, the offer being associated with a provider of said telecommunication services, receiving a response to the offer, wherein the response is associated with the buyer, wherein the response may be an acceptance of the offer or a rejection of the offer and notifying the provider of the response and an identity of the buyer (see at least FIG.1a, ' Calling party 110 " represents. buyers' terminals wherein each buyer can send one or more requests [see at least col.1, lines 28-32 and col.2, lines 62-66 wherein the buyers can request services for one or more telephone calls], CPO management system 100 [see also Fig.3] represents the sever which is requested for the required services/requests by the buyer, and " Inter exchange carrier 1, 2....N" correspond to different providers of services, col.4; tines 39-52, receiving and processing CPOS for telephone calls from one or more calling parties, such as a calling

party 110... ;and col.6, line 84-col.7, firm 9, " ... Figs. 8a and 1b, to provide (i) each CPO to the inter exchange carriers 120... ...". Also see col.3, lines 8-67. Note: Walker further discloses that on receiving responses from the number of inter exchange carriers, that is the service providers, the buyer is notified about the offers and if the buyer accepts an offer the contract is completed, that is the seller is informed and services accepted from the seller for said buyer and payment made, which implies notifying the identity of the buyer. Walker's system/method further includes the feature of providing a counter offer in response to the buyer's CPO , see col.6, lines 37-42, " *Thus, the CPO management system 100 can determine if one or more carriers accepts a given CPO by providing the CPO to each carrier and receiving an acceptance or rejection, or by applying the CPO to the CPO rules to render a decision to either accept, reject or counter a CPO on behalf of a particular carrier.* By sending a counter offer to he buyer inherently it will be either accepted by the buyer or rejected by the buyer and the buyer's response would be notified to the provider. Also see col.7, lines 15-33 which suggests that a buyer on receiving the provider's offer can either complete his call that implying accepting the provider's offer or may nor complete the call that implying rejecting the provider's offer.);

Walker does teach receiving information regarding prior use of telecommunication services of the buyer (see at least col.8, lines 11-28, and col.8, fine 59-col.9, fine 7, "**FIG. 4 illustrates an exemplary customer database 400 that preferably stores Information on each customer (calling party) of the CPO management system 900, Including biographical information and an indication of the local telephone company serving each customer.** ..... customer database 400 includes the customer's address in field 445, the manner in which the customer is bound

in field 450, an indication of the local telephone company serving the customer in field 455 and the customer's telephone number in field 460. The telephone number stored in field 460 may be utilized, for example, as a customer identifier to index a historical database (not shown) of previous transactions associated with the customer. " Note: Walker's suggestion of utilizing the stored telephone number Information as a customer identifier to index a historical database correspond to receiving Information about prior use of telecommunication services of the users/buyers). Walker does not explicitly disclose that the prior use information is received from the buyer and using this information to generate the offer from the provider of services. However, in the same field of endeavor, Bell discloses using prior use information from the customer/buyer in redesigning and improving the services and products offered to the buyer/customer (see at least page 2, paragraph beginning "A: Usually, no. Customers may be asked for a deposit if they have had prior credit problems with the telephone company. The amount of deposit for a new applicant would be twice the average monthly bill for all residential applications". Here, Bell teaches obtaining information from the buyers about the prior telephone service usage and using that information in generating offers that is asking for a deposit if the customer had prior credit problems with the telephone company ). In view of Bell, it would have been obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Walker to incorporate the teachings of receiving prior usage data of telephone services from the customers and using the same in providing telecommunication services/generating offers to the buyers who had prior credit problems.

Regarding claims 45 and 46, their limitations are already covered in the analysis of claim 39 above (see Bell at least page 2, paragraph beginning "A: Usually, no. Customers may be asked for a deposit if they have had prior credit problems with the telephone company.).

Regarding claims 54 and 58 their limitations are closely parallel to the limitations of claim 39 and are therefore analyzed and rejected on the basis of same rationale set forth for claim 39 above.

Regarding claims 55 & 60, Walker discloses a database in communication with the server (see fig.3. Data storage device 330 in communication with server 300 wherein the database device 330 can store buyer's requests [CPO], buyer data, qualification data and seller data [carrier] and any other relevant information can be stored and used ).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on Increased Flex/Hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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